

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

“chronological details,” the court found the allegations to be “so broad and so vague that they fail to stand for anything.” *Id.* at 13-14. The court faulted the complaint because “it pleads no basis for including *these* particular defendants in *this* suit other than the fact that they allegedly engaged in parallel conduct.” *Id.* at 15. Furthermore, though the complaint suggested that the defendants’ parallel imposition of new surcharges was the product of a conspiracy, the court found that the plaintiffs “fail to take the necessary next step of excluding the possibility that defendants’ parallel conduct was ‘in line with a wide swath of rational and competitive business strategy unilaterally prompted by common perceptions of the market.’” *Id.* at 16 (quoting *Twombly*, 127 S. Ct. at 1964).

In *Digital Music*, the court dismissed a putative class action complaint alleging that four defendant record companies conspired to raise the price of digital music. Slip op. at 2-3. The plaintiffs specifically alleged that defendants entered into sham joint venture arrangements that charged supracompetitive prices and imposed restrictions on the use of digital music, enforced those price and use restrictions through most-favored nations clauses and side agreements with the joint ventures, and set a price floor for purposes of dealing with third-party licensees. *Id.* at 5-8. But the court rejected the plaintiffs’ allegations of “sham” joint venture arrangements because “each reason offered . . . to support their sham allegation has an entirely reasonable independent justification.” *Id.* at 16. Considering these allegations, together with plaintiffs other allegations, including allegations of parallel price increase announcements, the court concluded that the allegations “are just as consistent with independent actions” and “are insufficient as a matter of law.” *Id.* at 24.

[SIGNATURE ON NEXT PAGE]

Date: October 16, 2008.

Respectfully submitted,

s/ Howard D. Scher

Howard D. Scher

Steven E. Bizar

Thomas P. Manning

Landon Y. Jones

BUCHANAN INGERSOLL & ROONEY PC

1835 Market Street, 14th Floor

Philadelphia, PA 19103-2985

(215) 665-8700

(215) 665-8760 (fax)

*Attorneys for Defendants Arkema Inc. and Arkema  
France and on behalf of Defendant Lucite Interna-  
tional, Inc.*